

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

DEONDRAY MASON, #2198087

§

VS.

§

CIVIL ACTION NO. 6:20cv570

R. SANCHEZ, ET AL.

§

REPORT AND RECOMMENDATION OF THE  
UNITED STATES MAGISTRATE JUDGE

Plaintiff Deondray Mason, a prisoner confined at the Clements Unit within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The cause of action was referred to the undersigned United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On November 24, 2020, the undersigned granted Plaintiff's motion for an extension of time, (Dkt. #8), in which to submit a properly certified *in forma pauperis* data sheet—no later than December 16, 2020. The underlying deficiency order, (Dkt. #4), warned Plaintiff that the failure to submit a motion for leave to proceed *in form pauperis*—along with a certified data sheet—may result in the dismissal of his complaint. A copy of the order granting Plaintiff an extension of time was mailed to his last-known address, with an acknowledgment card. The docket reflects that Plaintiff received a copy of that order on December 2, 2020, (Dkt. #9). However, to date, Plaintiff has neither submitted his data sheet as ordered nor communicated with the Court since the request for an extension of time.

A district court may dismiss an action for the failure of a litigant to prosecute or to comply with any order of the court. Fed. R. Civ. P. 41(b); *see also McCullough v. Lynaugh*, 835 F.2d

1126, 1127 (5th Cir. 1988) (“The court possesses the inherent authority to dismiss the action *sua sponte*, without motion by a defendant.”).

Here, Plaintiff Mason failed to comply with the order directing him to submit a properly certified data sheet no later than December 16, 2020. Plaintiff’s failure to comply an order is not an action that threatens the judicial process—thereby rendering a dismissal with prejudice unwarranted. Therefore, upon consideration of all relevant factors, the Court has determined that the interests of justice are best served by a dismissal of this case without prejudice.

RECOMMENDATION

Accordingly, it is recommended that the above-styled action be dismissed, without prejudice, for Plaintiff’s failure to comply with an order of the Court.

Within fourteen (14) days after receipt of the Magistrate Judge’s Report, any party may serve and file written objections to the findings and recommendations contained in the Report.

A party’s failure to file written objections to the findings, conclusions and recommendations contained in this Report within fourteen days after being served with a copy shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Servs. Auto Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

**So ORDERED and SIGNED this 28th day of December, 2020.**

  
JOHN D. LOVE  
UNITED STATES MAGISTRATE JUDGE